

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 5:10cr14DCB-FKB

ELVIS D. PRATER AND  
DEWAYNE E. JOHNSON

**ORDER OF CONTINUANCE**

This cause is before the Court on the United States' motion for continuance due to an essential witness for the Government, Dr. Michael Angel, being unavailable to testify during the trial scheduled to begin on June 20, 2011. Defendant Prater objects to the motion but Defendant Johnson does not. Dr. Angel testified in the first trial of this matter, which resulted in a conviction on one count of the indictment, an acquittal on one count of the indictment and a hung jury on six of the eight counts of the indictment. The Court finds that Dr. Angel is an essential and material witness in the United States' case-in-chief and that a continuance is warranted here.

The Court finds that the Defendants are not prejudiced by an additional delay because they remain out of custody and that the United States' motion for a continuance of this matter was made out of necessity and not to create undue delay.

THEREFORE, the Court is of the opinion and so finds that the

Government's request for a continuance of this matter should be granted; that the ends of justice served by granting a continuance herein outweigh the best interest of the public and the defendant in a speedy trial and failure to grant the continuance would "result in a miscarriage of justice". 18 U.S.C. § 3161(h)(8)(B)(i).

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Government's Motion to Continue this matter for trial is hereby granted.

IT IS FURTHER ORDERED AND ADJUDGED that, pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), all time from the date of this order until the continued date for the trial of this matter be excluded in the interest of justice from the time within which the trial is scheduled, the Court having found that granting of such continuance best serves the ends of justice and outweighs the interest of the public and the defendant in a speedy trial. The Court orders the trial of this matter shall be continued and reset for July 25, 2011, at 9:00 a.m. in Natchez, MS.

SO ORDERED, this the 9th day of June, 2011.

s/ David Bramlette  
UNITED STATES DISTRICT JUDGE